Table of Contents

CHAPTER 1: Introduction 1-1

- 1.1 Summary of Benchbook Contents 1-1
- 1.2 Table Summarizing Statutes and Court Rules Related to Child Protective Proceedings 1-4
- 1.3 Summary of Recent Legislation 1-5
 - A. Creation of Family Division of Circuit Court 1-6
 - B. Matters Involving Members of Same Family Must Be Assigned to Same Family Division Judge When Practicable 1-6
 - C. Family Division Has Jurisdiction Over "Nonparent Adults" 1-6
 - D. Family Division May Issue Orders to "Nonparent Adults" 1-6
 - E. A Parent's Parental Rights May Be Terminated Because of Abuse or Injury Caused by a "Nonparent Adult" 1-7
 - F. FIA Has Increased Access to Medical and Mental Health Records During Investigation of Suspected Child Abuse or Neglect 1-7
 - G. FIA Must Now Classify Allegations of Child Abuse or Neglect in Five-Tiered System 1-7
 - H. FIA Must File Petition Within 24 Hours After Determining That Child Was Severely Physically Injured or Sexually Abused 1-7
 - I. Court May Order Parent, Guardian, Custodian, "Nonparent Adult," or Other Person Out of Child's Home 1-8
 - J. Court Must Appoint "Lawyer-Guardian Ad Litem" for Each Child 1-8
 - K. Court Must Appoint an Attorney for Child Only If "Lawyer-Guardian Ad Litem" and Child Disagree as to Child's Best Interests 1-8
 - L. Required Criteria for Placing Child Outside of the Home Are Eliminated From Juvenile Code 1-9
 - M. Supervising Agency Must Make Efforts to Place Child With Suitable Relative 1-9
 - N. Restrictions Are Placed on Supervising Agency's Authority to Change Child's Foster Care Placement 1-9
 - O. "Permanent Foster Family Agreements" Created 1-10
 - P. Parenting Time Requirements Are Established 1-10

- Q. Standard Civil Jury Instructions Created for Child Protective Proceedings 1-10
- R. Child's Physician Is Required to Review Case Service Plan When Certain Injuries or Illnesses Are Diagnosed 1-10
- S. New Time Requirements Created for Review Hearings 1-11
- T. New Time Requirements Created for Permanency Planning Hearings 1-11
- U. FIA Is Required to File Supplemental Petition If It Discovers Additional Abuse or Neglect 1-11
- V. FIA Must File Petition for Termination of Parental Rights at Initial Dispositional Hearing If Certain Circumstances Exist 1-11
- W. New Grounds for Termination of Parental Rights Are Created 1-12

CHAPTER 2: Reporting & Investigation of Suspected Abuse & Neglect 2-1

- 2.1 Scope Note 2-2
- 2.2 Definitions Under the Child Protection Law 2-2
 - A. "Child Abuse" 2-3
 - B. "Child Neglect" 2-4
 - C. "Person Responsible for the Child's Health or Welfare" 2-4
- 2.3 Types of Physical and Mental Injuries Covered by the Child Protection Law 2-5
- 2.4 Religious Exemptions Under the Child Protection Law 2-5
- 2.5 Persons Required to Report Suspected Abuse or Neglect 2-6
- 2.6 Reports by "Non-Mandatory" Reporters of Suspected Abuse or Neglect 2-7
- 2.7 Child Abuse Reports by Judges Under the Parental Rights Restoration Act 2-7
 - A. When Minor Reveals That She Is Victim of Sexual Abuse 2-8
 - B. When Judge Suspects That Minor Is Victim of Child Abuse 2-8
- 2.8 "Reasonable Cause to Suspect" Abuse or Neglect 2-8
- 2.9 Time Requirements for Reporting Suspected Abuse or Neglect 2-10
- 2.10 Investigation Requirements When Report Is Made to Family Independence Agency 2-10
- 2.11 Investigation Requirements When Report Is Made to a Law Enforcement Agency 2-11
- 2.12 Required Cooperation Between Family Independence Agency and Law Enforcement Officials 2-12
- 2.13 Required Use of Protocols 2-13
- 2.14 Investigation and Custody Requirements When Child Is Brought to Hospital 2-13
- 2.15 Required Procedures for Contacting Child at School 2-14
- 2.16 Interviewing Child Out of Presence of Suspected Abuser 2-15
- 2.17 The Use of Court Orders in Investigating Suspected Abuse or Neglect 2-15
- 2.18 Family Independence Agency Access to Confidential Records to Investigate Suspected Abuse or Neglect 2-15

- A. Medical Records 2-16
- B. School Records 2-17
- C. Records of Drug Counseling 2-17
- D. Mental Health Records 2-18
- E. Friend of the Court Records 2-18
- F. Access to Information on LEIN 2-18
- 2.19 Family Independence Agency Registry of Reports of Abuse and Neglect 2-19
- 2.20 Access by Public to Family Independence Agency's Registry 2-20
- 2.21 Required Response by the Family Independence Agency Following Investigation 2-21
- 2.22 Who May File a Petition Seeking Court Jurisdiction 2-23
- 2.23 Prosecutor's Right to Bring Both Child Protection and Criminal Charges Against Parents 2-24
- 2.24 Time Requirements for Filing a Petition in Cases Involving Severe Physical Injury or Sexual Abuse 2-25
- 2.25 Required Request for Termination of Parental Rights at Initial Dispositional Hearing 2-25
- 2.26 Required Conference to Decide Whether to Request Termination of Parental Rights at Initial Dispositional Hearing 2-26
- 2.27 Appointment of Lawyer-Guardian Ad Litem Under the Child Protection Law 2-27

CHAPTER 3: Jurisdiction, Venue, & Transfer 3-1

- 3.1 Preference for Keeping Children With Their Parents If Conducive to Child's Welfare and State's Best Interests 3-1
- 3.2 Subject Matter Jurisdiction Over Child Protective Proceedings 3-2
- 3.3 Definition of "Child Protective Proceeding" 3-3
- 3.4 Statutory Bases of Personal Jurisdiction 3-3
- 3.5 Definition of "Nonparent Adult" 3-5
- 3.6 Temporary Neglect Is Sufficient for Court to Take Jurisdiction 3-6
- 3.7 Parental Culpability Is Not Required for Court to Take Jurisdiction of Child Because of an Unfit Home 3-7
- 3.8 Anticipatory Neglect Is Sufficient for Court to Take Jurisdiction of a Newborn Child 3-7
- 3.9 Case Law Defining Culpable Failure or Refusal to Provide Support or Care ("Neglect") 3-7
- 3.10 Case Law Defining "Substantial Risk of Harm" to Child's Mental Well-Being ("Emotional Neglect") 3-8
- 3.11 Case Law Defining "Abandonment" 3-9
- 3.12 Case Law Defining "Without Proper Custody or Guardianship" 3-9
- 3.13 Case Law Defining Unfit Home Environment 3-11
- 3.14 Court's Authority to Take Jurisdiction Over a Child Following the Appointment of a Guardian 3-12

- A. Jurisdiction Following Parent's Failure to Comply With Limited Guardianship Placement Plan 3-13
- B. Jurisdiction Following Parent's Failure to Comply With Court-Structured Guardianship Placement Plan 3-14
- C. Jurisdiction Following Parent's Failure to Support or Communicate With a Child Who Has a Guardian 3-16
- 3.15 Waiver of Jurisdiction in Divorce Proceedings 3-17
- 3.16 Procedures for Handling Cases When Child Is Subject to Prior or Continuing Jurisdiction of Another Court in Michigan 3-18
- 3.17 Procedures for Handling Cases When Child Is Subject to Jurisdiction of Court in Another State 3-20
- 3.18 Continuation of Family Division Jurisdiction After Child Becomes 18 Years of Age 3-20
- 3.19 Family Division Jurisdiction and Authority Over Adults 3-21
- 3.20 Family Division Jurisdiction of Contempt Proceedings 3-21
- 3.21 Change of Venue 3-21
- 3.22 Transfer of Case to County of Residence 3-22
- 3.23 Required Procedures Following Transfer or Change of Venue 3-22

CHAPTER 4: Obtaining Custody of a Child 4-1

- 4.1 Temporary Removal and Placement of Child Without Court Order 4-1
- 4.2 Obtaining Custody of Child With Court Order 4-2
- 4.3 Required Investigation Before Placing a Child With Relatives Pending Preliminary Hearing 4-2
- 4.4 Required Procedures After Child Is in Custody 4-3
- 4.5 Time Requirements for Preliminary Hearings 4-3
- 4.6 Temporary Custody of Child Admitted to Hospital 4-4
- 4.7 Ordering Medical Treatment for the Child 4-4

CHAPTER 5: Time & Notice Requirements 5-1

- 5.1 General Rules Governing Notice in Child Protective Proceedings 5-1
- 5.2 Definitions of "Parent" and "Respondent" 5-2
- 5.3 Requirements for Valid Orders Directed to Parent or Other Person 5-2
- 5.4 Issuance and Service of Summons 5-3
 - A. Contents of Summons 5-4
 - B. Manner of Service of Summons 5-4
 - C. Time Requirements for Service of Summons 5-5
 - D. Subsequent Notices After a Failure to Appear 5-6

- 5.5 Persons Entitled to Notice of Hearings in Child Protective Proceedings 5-6
- 5.6 Persons Entitled to Notice of Dispositional Review Hearings, Permanency Planning Hearings, and Hearings to Terminate Parental Rights 5-7
- 5.7 Special Notice Provisions for Physicians 5-8
- 5.8 Special Notice Provisions for Noncustodial Parents 5-8
- 5.9 Special Notice Provisions for Putative Fathers 5-9
- 5.10 Special Notice Provisions for "Absent Parents" 5-9
- 5.11 Time Requirements for Notice of Hearings 5-10
- 5.12 Waiver of Notice of Hearing 5-10
- 5.13 Subpoenas 5-11
- 5.14 Subsequent Notices After First Appearance in Family Division 5-11
- 5.15 Appearance of Child at Trials or Hearings to Terminate Parental Rights 5-11
- 5.16 Adjournments and Continuances in Child Protective Proceedings 5-12
- 5.17 Table of Time and Notice Requirements in Child Protective Proceedings 5-13

CHAPTER 6: Petitions & Preliminary Inquiries 6-1

- 6.1 Persons Who May Submit a Petition to Court 6-1
- 6.2 Petitions to Initiate Child Protective Proceedings 6-1
- 6.3 Required Review of the Petition by the Prosecuting Attorney 6-2
- 6.4 Prosecuting Attorney as Petitioner 6-2
- 6.5 Required Filing of Petition by Family Independence Agency 6-3
- 6.6 Required Request for Termination of Parental Rights at Initial Dispositional Hearing 6-4
- 6.7 Permissive Requests for Termination of Parental Rights 6-4
- 6.8 Required Contents of Petitions 6-4
- 6.9 Required Information About Other Court Matters Involving Members of Same Family 6-5
- 6.10 Time Requirements for Filing a Petition in Family Division in Cases Involving Severe Physical Injury or Sexual Abuse 6-6
- 6.11 Preliminary Inquiries 6-7
- 6.12 Preliminary Inquiry May Be Held If the Petition Does Not Request Placement of Child 6-7
- 6.13 Referees Who May Conduct Preliminary Inquiries 6-8
- 6.14 Court's Options Following Preliminary Inquiries 6-8
- 6.15 Establishment of Probable Cause at Preliminary Inquiries 6-8

CHAPTER 7: Preliminary Hearings 7-1

- 7.1 Scope Note 7-1
- 7.2 Purposes of Preliminary Hearings 7-2
- 7.3 Referees Who May Conduct Preliminary Hearings 7-2
- 7.4 Time Requirements for Preliminary Hearings 7-2
- 7.5 Adjournments of Preliminary Hearings 7-3
- 7.6 Notice Requirements for Preliminary Hearings 7-3
- 7.7 Notification of Noncustodial Parents 7-4
- 7.8 Notification of Putative Fathers 7-4
- 7.9 Appointment of Attorney for Respondents 7-4
- 7.10 Appointment of Lawyer-Guardians Ad Litem for Children 7-6
- 7.11 Powers and Duties of Lawyer-Guardians Ad Litem 7-6
- 7.12 Appointment of Attorney for the Child 7-8
- 7.13 Appointment of Guardians Ad Litem 7-9
- 7.14 Appearance of Prosecuting Attorney 7-9
- 7.15 Required Procedures at Preliminary Hearings 7-10
 - A. Attempt to Notify Parent 7-10
 - B. Required Presence of Lawyer-Guardian Ad Litem for Child 7-10
 - C. Reading the Allegations in Petition 7-10
 - D. Decision to Continue With the Hearing 7-11
 - E. Required Advice of Rights 7-11
 - F. Required Procedures for Cases Involving Indian Children 7-11
 - G. Opportunity for Respondent to Admit or Deny the Allegations 7-11
- 7.16 Authorization of Filing of Petition 7-11
- 7.17 Required Indication of Whether Temporary or Permanent Custody Is Sought 7-13
- 7.18 Placement or Release of the Child to a Parent, Guardian, or Custodian 7-13
- 7.19 Requirements to Order Alleged Abuser From the Child's Home 7-13
- 7.20 Warrantless Arrest of Persons Violating Orders Removing Them From Child's Home 7-15
- 7.21 Records of Preliminary Hearings 7-16
- 7.22 Order After Preliminary Hearing 7-16
- 7.23 Orders Affecting "Nonparent Adults" 7-16

CHAPTER 8: Placement of Child Pending Trial 8-1

- 8.1 Requirements to Release or Place Child Pending Trial 8-1
 - A. Requirements to Release the Child 8-1
 - B. Requirements to Place the Child When Neglect Is Alleged 8-2

- C. Temporary Placement Pending Completion of Preliminary Hearing 8-3
- 8.2 Type of Placements Available 8-3
- 8.3 Required Considerations When Petition Alleges Severe Physical Injury or Sexual Abuse of Child 8-4
- 8.4 Required Findings to Release Child to Parent or Place Child in Unlicensed Foster Care When Abuse Is Alleged 8-4
- 8.5 Required Release of Information When Child Is Placed in Foster Care 8-5
- 8.6 Required Medical Examination of Child Placed in Foster Care 8-6
- 8.7 Requirements for Establishing "Medical Passports" 8-6
- 8.8 Required Advice Concerning Initial Service Plans 8-7
- 8.9 Visitation of Child in Placement 8-8
- 8.10 Order for Examination or Evaluation of Parent or Child 8-8
- 8.11 Required Findings When Placement Is Ordered 8-8
- 8.12 Required Review of Placement and Initial Service Plan 8-9
 - A. On Motion of a Party 8-9
 - B. Following Notification of Supervising Agency's Placement Decision 8-9
- 8.13 Restrictions on Changes of Child's Foster Care Placement 8-10
- 8.14 Required Notices Prior to Changes of Child's Foster Care Placement 8-11
- 8.15 Required Procedures for Appeals of Changes of Foster Care Placements 8-11
 - A. Investigation by Foster Care Review Board 8-11
 - B. Change in Child's Placement Pending Appeal to Family Division 8-12
- 8.16 Appeals to Family Division of Changes of Foster Care Placements 8-12
- 8.17 Emergency Change in Child's Foster Care Placement 8-12
- 8.18 Order Following Preliminary Hearing 8-13

CHAPTER 9: Pretrial Proceedings 9-1

- 9.1 Pretrial Conferences 9-1
- 9.2 Appointment of Attorney for the Child 9-2
- 9.3 Discovery 9-2
 - A. As of Right 9-2
 - B. By Motion 9-3
- 9.4 Motion Practice 9-3
 - A. Referees Who May Conduct Pretrial Motion Hearings 9-3
 - B. Notice and Service Requirements 9-4

- C. Form of Motions 9-4
- D. Motions for Rehearing and Reconsideration 9-4
- 9.5 Motions to Close Proceedings to the Public 9-4
- 9.6 Motions for Change of Venue 9-5
- 9.7 Required Hearings on the Admissibility of Statements by Children Under Age 10 Describing Acts of Abuse 9-5
- 9.8 Alternative Procedures to Obtain Testimony of Child Witnesses 9-6
 - A. Witnesses Covered by the Statute 9-6
 - B. Methods That May Be Used 9-7
- 9.9 Appointment of Impartial Questioner 9-9
- 9.10 Orders for Examination or Evaluation of Parent or Child 9-9
- 9.11 Demand for Jury Trial or Trial by Judge 9-9
- 9.12 Required Procedures for Establishing Paternity 9-10
 - A. Definition of "Father" 9-10
 - B. Required Notice to Putative Father 9-11
 - C. Required Procedures at Hearing to Establish That Putative Father Is the Natural Father of the Child 9-12

CHAPTER 10: Pleas of Admission or No Contest 10-1

- 10.1 Available Pleas 10-1
- 10.2 Right to Have a Judge Preside at Plea Proceeding 10-2
- 10.3 Referees Who May Conduct Plea Proceedings 10-2
- 10.4 Persons Entitled to Notice of Plea Proceedings 10-3
- 10.5 Appearance of Prosecuting Attorney 10-4
- 10.6 Appearance of Lawyer-Guardian Ad Litem for Child 10-4
- 10.7 Appointment of Attorney for Respondent 10-4
- 10.8 Required Advice of Rights 10-5
- 10.9 Requirement of a Knowing, Understanding, Voluntary, and Accurate Plea 10-5
- 10.10 Special Requirements for No Contest Pleas 10-6
- 10.11 Records of Plea Proceedings 10-6
- 10.12 Preservation of Issues for Appeal 10-6
- 10.13 Combined Adjudicative and Dispositional Hearings 10-6

CHAPTER 11: Evidentiary Issues in Child Protective Proceedings 11-1

- 11.1 Scope Note 11-1
- 11.2 Due Process Requirements for Termination of Parental Rights 11-1

- 11.3 Table Summarizing Evidentiary Rules and Standards of Proof 11-2
- 11.4 Abrogation of Privileges in Protective Proceedings 11-8
- 11.5 Admission of Hearsay Evidence at Preliminary Hearings 11-9
- 11.6 Exceptions to the "Hearsay Rule" Commonly Relied Upon in Protective Proceedings 11-9
 - A. Admissions by Party Opponents Are Excluded From the "Hearsay Rule" 11-10
 - B. Present Sense Impressions 11-10
 - C. Excited Utterances 11-10
 - D. Statements of Existing Mental, Emotional, or Physical Condition 11-12
 - E. Statements Made for Purposes of Medical Treatment or Diagnosis 11-12
 - F. Records of Regularly Conducted Activity 11-13
 - G. Public Records 11-14
 - H. Judgment of Previous Conviction 11-14
 - I. Residual Exceptions to the "Hearsay Rule" 11-15
- 11.7 Admissibility of Statement by Child Under 10 Years of Age Describing Act of Child Abuse 11-16
- 11.8 Evidence of the Treatment of One Child Is Admissible to Show Treatment of Sibling 11-18
- 11.9 Evidence of Other Crimes, Wrongs, or Acts 11-19
- 11.10 Evidence Admitted at Hearing May Be Considered at Subsequent Hearings 11-19
- 11.11 Child Witnesses Are Not Presumed Incompetent 11-20
- 11.12 Expert Testimony in Protective Proceedings 11-20
- 11.13 Requirements for the Use of Photographs 11-21
- 11.14 Prohibition Against Calling Lawyer-Guardian Ad Litem as Witness 11-21

CHAPTER 12: Trials 12-1

- 12.1 Purpose of Trials in Child Protective Proceedings 12-1
- 12.2 Combined Adjudicative and Dispositional Hearings 12-2
- 12.3 Demand for Jury Trial or Trial by Judge 12-2
- 12.4 Time Requirements 12-3
- 12.5 Notice Requirements 12-5
- 12.6 Parties Who May Be Present at Trial 12-5
- 12.7 Appearance of Prosecuting Attorney 12-5
- 12.8 Appointment of Attorney for Respondent 12-6
- 12.9 Appearance of Lawyer-Guardian Ad Litem for Child 12-6
- 12.10 Appointment of Guardians Ad Litem 12-6

- 12.11 Rules of Evidence and Standard of Proof 12-6
- 12.12 Preliminary Procedures 12-7
- 12.13 Jury Procedures Generally 12-7
- 12.14 Peremptory Challenges in Jury Trials 12-8
- 12.15 Jury Instructions 12-8
 - A. Use of Standard Jury Instructions 12-8
 - B. Requests for Instructions 12-8
 - C. Objections to Instructions 12-9
 - D. Providing the Jury With a Copy of the Instructions 12-9
- 12.16 Motions for Directed Verdict in Jury Trials 12-9
- 12.17 Taking the Verdict in Jury Trials 12-10
- 12.18 Court's Authority to Call Additional Witnesses 12-10
- 12.19 Appointment of Impartial Questioner 12-11
- 12.20 Alternative Procedures to Obtain Testimony of Child Witnesses 12-11
- 12.21 Findings of Fact and Conclusions of Law by Judge or Referee 12-11
- 12.22 Records of Proceedings at Adjudicative Hearings 12-11
- 12.23 Notice to Courts With Prior Continuing Jurisdiction 12-11

CHAPTER 13: Initial Dispositions 13-1

- 13.1 The Dispositional Phase of Child Protective Proceedings 13-2
- 13.2 Purpose of Initial Dispositional Hearings 13-3
- 13.3 Placing the Child in the Temporary or Permanent Custody of the Court 13-3
- 13.4 Termination of Parental Rights at the Initial Dispositional Hearing 13-4
- 13.5 Suspension of Parenting Time When Termination of Parental Rights Is Requested at the Initial Dispositional Hearing 13-5
- 13.6 Referees Who May Preside at Dispositional Hearings 13-5
- 13.7 Time Requirements 13-6
- 13.8 Adjournments and Continuances 13-6
- 13.9 Notice Requirements 13-7
- 13.10 Requirements for Valid Orders Directed to Parents 13-7
- 13.11 Parties Who May Be Present at Initial Dispositional Hearings 13-8
- 13.12 Appointment of Attorney for Respondent 13-8
- 13.13 Appearance of Lawyer-Guardian Ad Litem for Child 13-8
- 13.14 Appointment of Guardians Ad Litem 13-8
- 13.15 Appearance of Prosecuting Attorney 13-8

- 13.16 Rules of Evidence at Initial Dispositional Hearings 13-8
 - A. Consideration of Case Service Plan, Reports, and Other Information 13-9
 - B. Opportunity to Controvert Written Reports 13-9
 - C. In-Camera Conferences Prohibited 13-10
- 13.17 Abrogation of Privileges 13-10
- 13.18 Required Review of Case by Child's Physician 13-10
 - A. Definition of "Failure to Thrive" 13-11
 - B. Definition of "Munchausen Syndrome by Proxy" 13-11
 - C. Definition of "Shaken Baby Syndrome" 13-12
- 13.19 Required Consideration of Case Service Plans 13-12
- 13.20 Required Testimony by Child's Physician Regarding Case Service Plan 13-13
- 13.21 Court-Ordered Compliance With Case Service Plan by "Nonparent Adult" 13-13
- 13.22 Required Ruling on "Reasonable Efforts" Determination 13-14
- 13.23 Required Notice of Right to Seek Review of Referee's Recommended Findings and Conclusions 13-15
- 13.24 Dispositional Options Available to Court 13-15
 - A. Warning to Child's Parents and Dismissal of Petition 13-16
 - B. In-Home Placement With Supervision 13-16
 - C. Placement in Foster Care 13-16
 - D. Commitment to a Private Institution or Agency 13-17
 - E. Commitment to a Public Institution or Agency 13-18
 - F. Orders for Health Care 13-18
 - G. Orders to Parents to Refrain From Conduct Harmful to Child 13-18
 - H. Appointment of Guardian for Child 13-19
- 13.25 Orders to Comply With Case Service Plans 13-19
- 13.26 Requirements for Medical Care of Child Placed in Foster Care 13-19
- 13.27 Orders for Reimbursement of Costs When Child
 - Is Placed Outside of Home 13-20
 - A. Amount of Reimbursement 13-21
 - B. Duration of Reimbursement Order 13-21
 - C. Collection and Disbursement of Amounts Collected 13-21
 - D. Delinquent Accounts 13-22
 - E. Copy of Reimbursement Order to Department of Treasury 13-22
- 13.28 Orders for Reimbursement of Costs When Child Is Placed Under Supervision in Child's Own Home 13-23
- 13.29 Orders for Reimbursement of Attorney Fees 13-23
- 13.30 Use of Wage Assignments to Pay Reimbursement Orders 13-23
- 13.31 Notice to Courts With Prior Continuing Jurisdiction 13-24

- 13.32 Notice of Dispositional Review Hearings 13-24
- 13.33 Accelerated Review Hearing 13-24
- 13.34 Required Revision of Case Service Plans 13-25
- 13.35 Provision of Records to Child's Foster Care Provider 13-25
- 13.36 Appeals of Initial Disposition Orders 13-25
- 13.37 Supplemental Orders of Disposition 13-26

CHAPTER 14: Review of Referee's Recommended Findings & Conclusions 14-1

- 14.1 Hearings a Referee May Conduct 14-1
- 14.2 Required Findings by Referees 14-1
- 14.3 Advice of Right to Seek Review Following Dispositional Hearing 14-1
- 14.4 Required Review 14-2
- 14.5 Form and Time Requirements for Requests for Review 14-2
- 14.6 Time Requirement for Filing a Response to a Request for Review 14-2
- 14.7 Time Requirement for Judge's Decision 14-2
- 14.8 Form of Relief 14-3
- 14.9 Standard of Review 14-3
- 14.10 Stay of Proceedings 14-3

CHAPTER 15: Rehearings 15-1

- 15.1 Motions for Rehearing 15-1
- 15.2 Standard for Granting Relief 15-1
- 15.3 Notice Requirements 15-2
- 15.4 Time Requirements for Filing Motions for Rehearing 15-2
- 15.5 Time Requirements for Filing Response 15-2
- 15.6 Remedies 15-2
- 15.7 No Hearing Required 15-3
- 15.8 Findings by Court 15-3
- 15.9 Stay of Proceedings 15-3

CHAPTER 16: Dispositional Reviews & Review Hearings 16-1

- 16.1 Different Procedures for Progress Reviews and Dispositional Review Hearings 16-2
- 16.2 Requirements of the Child's Supervising Agency 16-2
- 16.3 Referees Who May Conduct Dispositional Review Hearings 16-3
- 16.4 Appointment of Attorney for Respondent 16-3
- 16.5 Appearance of Lawyer-Guardian Ad Litem for Child 16-4
- 16.6 Appointment of Guardians Ad Litem 16-4
- 16.7 Appearance of Prosecuting Attorney 16-4
- 16.8 Time Requirements for Review Hearings When Child Is in Foster Care 16-4
- 16.9 Accelerated Review Hearings 16-5
- 16.10 Combined Permanency Planning Hearing and Review Hearing 16-6
- 16.11 Notice Requirements for Dispositional Review Hearings 16-6
- 16.12 Waiver of Review Hearing and Return of Child Home 16-7
- 16.13 Required Procedures and Rules of Evidence at Dispositional Review Hearings 16-7
 - A. Information That the Court Must Consider 16-8
 - B. Updated and Revised Case Service Plan 16-8
 - C. Review of Agency Report and Recommendation 16-8
 - D. Accelerated Review of Elements of Case Service Plan 16-8
- 16.14 Required Review of Progress Toward Compliance With Case Service Plan 16-9
- 16.15 Required Determination of Progress Toward Return of Child Home 16-9
- 16.16 Modification of the Case Service Plan 16-9
- 16.17 Amended or Supplemental Orders of Disposition 16-10
- 16.18 Records of Dispositional Review Hearings 16-10
- 16.19 Progress Reviews of Children at Home 16-11
- 16.20 Referees Who May Conduct Progress Reviews 16-11
- 16.21 Requirements to Order a Change in Placement When Child Is at Home 16-11
- 16.22 Emergency Removal of the Child Placed at Home 16-11
 - A. Emergency Removal Hearing 16-11
 - B. Review Hearing Following Emergency Removal 16-13
- 16.23 Supplemental Petition Required If Additional Allegations of Abuse or Neglect Are Substantiated 16-13

CHAPTER 17: Permanency Planning Hearings 17-1

- 17.1 Purpose of Permanency Planning Hearings 17-1
- 17.2 Time Requirements 17-2

- 17.3 Notice Requirements 17-3
- 17.4 Referees Who May Conduct Permanency Planning Hearings 17-4
- 17.5 Appointment of Attorney for Respondent 17-4
- 17.6 Appearance of Lawyer-Guardian Ad Litem for Child 17-5
- 17.7 Appointment of Guardians Ad Litem 17-5
- 17.8 Appearance of Prosecuting Attorney 17-5
- 17.9 Required Procedures and Rules of Evidence at Permanency Planning Hearings 17-5
 - A. Information That the Court Must Consider 17-5
 - B. Opportunity to Controvert Written Reports 17-6
- 17.10 Court's Options Following Permanency Planning Hearings 17-6
 - A. First Decision: Determine Whether to Return Child Home 17-6
 - B. Second Decision: Determine Whether to Initiate Proceedings to Terminate Parental Rights 17-6
 - C. Third Decision: Determine Whether to Continue Child's Foster Care Placement for a Limited Period 17-7

CHAPTER 18: Hearings on Termination of Parental Rights 18-1

- 18.1 When the Court May Consider a Request for Termination of Parental Rights 18-3
 - A. At the Initial Dispositional Hearing 18-3
 - B. When the Child Is in Foster Care or in the Custody of a Guardian 18-3
 - C. When the Child Is Not in Placement 18-3
- 18.2 Effects of Termination of Parental Rights 18-4
- 18.3 Petition Requirements 18-4
- 18.4 Standing to File Petition Requesting Termination of Parental Rights 18-5
- 18.5 "Respondent" Defined 18-6
- 18.6 No Right to Jury Trial 18-7
- 18.7 Appointment of Attorney for Respondent 18-7
- 18.8 Appointment of Lawyers and Guardians Ad Litem for Children 18-7
- 18.9 Appearance of Prosecuting Attorney 18-8
- 18.10 Notice Requirements 18-8
- 18.11 Suspension of Parenting Time 18-9
- 18.12 Types of Evidence That May Be Used to Establish Statutory Basis for Termination 18-9
- 18.13 Burden of Proof Required to Establish Statutory Basis for Termination 18-10
- 18.14 Burden of Proof Required for the "Best Interest" Step 18-11
 - A. Rules of Evidence Do Not Apply 18-12
 - B. Court Is Not Required to Place Child With Relatives 18-12
- 18.15 Type of Permanent or Long-Term Neglect Required for Termination 18-13

- 18.16 Special Rules of Evidence Applicable to Termination Hearings 18-14
- 18.17 Termination of Parental Rights at Initial Dispositional Hearing 18-16
 - A. Circumstances That Require Mandatory Petitions for Termination 18-16
 - B. Court Rule Provisions Governing Discretionary Petitions to Terminate 18-17
 - C. Required Conference to Decide Whether to Request Termination 18-18
- 18.18 Termination of Parental Rights on the Basis of New or Different Offense Than That for Which Court Took Jurisdiction Over Child 18-19
 - A. No Time Requirement for Filing or Action on Supplemental Petition 18-19
 - B. Factfinding Step 18-19
 - C. "Best Interest" Step 18-19
- 18.19 Termination of Parental Rights When the Child Is Still in Foster Care at Time of Review Hearings 18-20
 - A. Time Requirements for Filing Supplemental Petition 18-21
 - B. Time Requirements for Holding a Hearing on the Supplemental Petition 18-21
 - C. Rules of Evidence 18-21
 - D. Standard of Proof 18-21
- 18.20 Required Findings by the Court After Hearing on Petition for Termination 18-22
- 18.21 Required Advice of Rights Following Termination of Parental Rights 18-22
- 18.22 Appointment of Appellate Counsel 18-23
- 18.23 Voluntary Termination of Parental Rights 18-23
- 18.24 Termination of One Parent's Rights Under the Juvenile Code 18-24
- 18.25 Termination of Parental Rights Under the Adoption Code 18-25
 - A. An Overview of Termination of Parental Rights Under the Adoption Code 18-25
 - B. Required Procedures for Termination When There Is a Petition for Step-Parent Adoption 18-25
- 18.26 An Overview and History of §19b(3) of the Juvenile Code 18-27
- 18.27 Termination on the Grounds of Desertion-§19b(3)(a) 18-28
- 18.28 Termination on the Grounds of Physical Injury or Sexual Abuse-§19b(3)(b) 18-29
- 18.29 Termination on the Grounds of Failure to Rectify Conditions Following the Court's Assumption of Jurisdiction–§19b(3)(c) 18-32
- 18.30 Termination on the Grounds of Substantial Failure to Comply With Limited Guardianship Placement Plan–§19b(3)(d) 18-36
- 18.31 Termination on the Grounds of Substantial Failure to Comply With Court-Structured Guardianship Placement Plan–§19b(3)(e) 18-36
- 18.32 Termination on the Grounds of Parent's Failure to Support, Visit, Contact, and

Communicate With Child Who Has Guardian-§19b(3)(f) 18-37

- 18.33 Termination on the Grounds of Failure to Provide Proper Care or Custody-§19b(3)(g) 18-38
- 18.34 Termination on the Grounds of Imprisonment of the Parent–§19b(3)(h) 18-42
- 18.35 Termination on the Grounds of Prior Termination of Parental Rights to Siblings–§19b(3)(i) 18-44
- 18.36 Termination on the Grounds of Reasonable Likelihood of Harm to Child–§19b(3)(j) 18-45
- 18.37 Termination on the Grounds of Serious Abuse of Child or Sibling-§19b(3)(k) 18-45
- 18.38 Termination on the Grounds of Prior Involuntary Termination of Parental Rights to Another Child-§19b(3)(l) 18-46
- 18.39 Termination on the Grounds of Prior Voluntary Termination of Parental Rights to Another Child–§19b(3)(m) 18-46
- 18.40 Termination on the Grounds of Conviction of a Serious Offense-§19b(3)(n) 18-47

CHAPTER 19: Post-Termination Review Hearings 19-1

- 19.1 Purpose of Post-Termination Review Hearings 19-1
- 19.2 Appearance of Lawyer-Guardian Ad Litem for Child 19-1
- 19.3 Time Requirements for Post-Termination Review Hearings 19-1
- 19.4 Time Requirements When Child Is Subject to "Permanent Foster Family Agreement" or in Relative Placement Intended to Be Permanent 19-2
- 19.5 Notice Requirements 19-2
- 19.6 Required Findings and Conclusions Following Review Hearings 19-3
- 19.7 Orders Entered Concerning Placement of Child for Adoption While Rehearing or Appeal Is Pending 19-3
- 19.8 Inclusion of Child on Registry of Children Available for Adoption 19-4

CHAPTER 20: Child Protective Proceedings Involving Indian Children 20-1

- 20.1 General Requirements of the Indian Child Welfare Act 20-1
- 20.2 Purpose of the Indian Child Welfare Act 20-2
- 20.3 Determining the Applicability of the Indian Child Welfare Act in a Specific Case 20-2
 - A. Family Independence Agency's Responsibility 20-3
 - B. Petitioner's Responsibility 20-3
 - C. Court's Responsibility 20-3
- 20.4 Required Transfer and Notice of Case to Tribal Court 20-4
 - A. Mandatory Transfer of Case to Tribal Court 20-4
 - B. Notice of Proceedings to Parent and Tribe or Secretary of Interior 20-4

- C. Non-Mandatory Transfer of Case to Tribal Court 20-4
- 20.5 Additional Time Required to Prepare for Proceedings 20-5
- 20.6 Custodian's and Tribe's Rights to Intervene in Proceedings 20-5
- 20.7 Emergency Removal of Indian Child From Home 20-5
- 20.8 Required Procedures for Placement of Indian Child 20-5
- 20.9 Preferred Placements of Indian Children 20-6
- 20.10 Required Procedures to Terminate Parental Rights 20-7
- 20.11 Requirements for Voluntary Foster Care Placement or Consent to Termination of Parental Rights 20-7
- 20.12 Invalidation of State Court Action for Violation of the Indian Child Welfare Act 20-8

CHAPTER 21: Appeals 21-1

- 21.1 Special Time Requirement for Rehearings Following Termination of Parental Rights 21-1
- 21.2 Court Rules Governing Appeals in Child Protective Proceedings 21-1
- 21.3 Appeals by Right to the Court of Appeals 21-1
- 21.4 Appeals by Leave to the Court of Appeals 21-2
- 21.5 Time Requirements 21-2
- 21.6 Delayed Appeals 21-3
- 21.7 Standards of Review 21-3
- 21.8 Collateral Attack of Jurisdiction 21-4
- 21.9 Stay of Proceedings 21-5
- 21.10 Use of Minor's Initials in Published Opinions 21-5

CHAPTER 22: Family Division Records 22-1

- 22.1 Scope Note 22-1
- 22.2 Records of Family Division 22-1
- 22.3 Confidential Files 22-2
- 22.4 Access to Confidential Files by Persons With Legitimate Interest 22-2
- 22.5 Records of Proceedings in Family Division 22-2
- 22.6 Requirements for Film or Electronic Media Coverage of Court Proceedings 22-3

- 22.7 Requirements for Closing Child Protective Proceedings to the Public 22-3
- 22.8 Access to Records of Closed Protective Proceedings by Persons With a Legitimate Interest 22-4
- 22.9 Expungement of Family Division Records and Files 22-4

Checklists

Benchnotes

Indexes

Subject Matter Index

Index of Cases Cited